

#### Members

Sen. Connie Lawson, Chairperson  
Sen. Vi Simpson  
Rep. Charlie Brown  
Rep. Cindy Noe  
Loretta Kroin  
Kathleen O'Connell  
Stacey Cornett  
Margie Payne  
Ronda Ames  
Valerie N. Markley  
Bryan Lett  
Caroline Doebbling  
Kurt Carlson  
Chris Taelman  
Jane Horn  
Dr. Danita Johnson-Hughes



## COMMISSION ON MENTAL HEALTH

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Authority: IC 12-21-6.5

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** September 15, 2009  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington St., Senate Chamber  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 1

**Members Present:** Sen. Connie Lawson, Chairperson; Rep. Charlie Brown; Rep. Cindy Noe; Kathleen O'Connell; Stacey Cornett; Ronda Ames; Valerie N. Markley; Caroline Doebbling; Kurt Carlson; Chris Taelman; Jane Horn.

**Members Absent:** Sen. Vi Simpson; Loretta Kroin; Margie Payne; Bryan Lett; Dr. Danita Johnson-Hughes.

#### **I. Call to Order:**

**Senator Connie Lawson, Chairperson**, called the meeting to order at 1:40 P.M. Senator Lawson welcomed those present and asked the members to introduce

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

themselves. Senator Lawson asked the members to observe a moment of silence for Ms. Abigail Flynn, a longtime member of the Commission, who passed away.

## **II. Update on the Division of Mental Health and Addiction (DMHA)**

**A. Ms. Gina Eckart, Director, DMHA,** provided an update on DMHA. (Attachment 1) In response to questions from Representative Noe, Ms. Eckart discussed the \$40 million owed by the state resulting from federal audit issues concerning payments to community mental health centers. Of the \$40 million, \$22 million is due to the federal government within the next month. That money represents audit exceptions where all appeals have been exhausted. FSSA will need to find the money in its budget. Since the exceptions were for inappropriate payments to community mental health centers, FSSA believes that the centers that received the funds should repay the state for the money owed to the federal government. There is an additional \$18 million claimed by the federal government for a series of later audits. There are still appeals being made on those audit exceptions. Some of the audit exceptions have been in the appeals process for some time. When no appeals are left, FSSA will have to make the payments and hopes to collect the money from the agencies receiving the funds.

**B. Mr. Roger Booth, Chief Audit Executive, FSSA,** discussed auditing procedures covering programs administered by DMHA. (Attachment 2) Programs are audited by the Inspector General's Office at Health and Human Services (HHS) as well as internal audits by the FSSA and the State Board of Accounts. The FSSA audits use information from the other auditing entities to focus on improving programs. In answer to questions from Senator Lawson, Mr. Booth indicated that the federal government requires repayment of money within 60 days if there are audit issues. That does not allow adequate time for appeals to be made. In answer to questions from Representative Brown, Mr. Booth said that FSSA internal audits differ from State Board of Accounts audits of FSSA programs in that these internal audits are more program oriented.

**C. Dr. Caroline Doebbling, Consultant, DMHA,** discussed Medicaid and behavioral health. (Attachment 3) In answer to questions from Rep. Brown, Dr. Doebbling said that it is now possible for an individual to receive physical and behavioral treatment from the same practice during the same visit if the physical and behavioral treatment are billed with different codes. (Previously, even if an individual saw separate providers within a practice on the same day, the practice could not bill for both physical and behavioral treatment on the same day.)

## **III. Discussion of Concerns Relating to Access to Mental Health Records (HCR 45)**

**Representative Mark Messmer,** author of HCR 45, explained the issue of access to mental health records. Rep. Messmer provided the members with copies of HB 1675 (Attachment 4) and an e-mail he received from an attorney representing an individual who had been denied access to certain mental health records (Attachment 5). IC 16-39-2-4 allows a provider to withhold certain records concerning treatment for mental illness if the provider believes that the records could be harmful to the patient.

**Mr. Chris Sullivan, representing the Indiana Psychological Association (Association),** stated that the release of the records is covered under the Health Insurance Portability and Accountability Act (HIPAA) laws. Part of the issue concerns clinical records which are available to the individual receiving treatment and psychotherapy notes which the Association believes should not be available. Rep. Messmer indicated

that he believes it is important to separate the notes from the clinical record.

**Mr. Tim Kennedy, representing the Indiana Hospital and Health Association,** indicated that the Hospital and Health Association believes that the HIPAA provisions cover access to mental health records. Because enacting provisions that might be different from the HIPAA standard could create a conflict, he would prefer that conflict be avoided by relying on the HIPAA standards.

#### **IV. Discussion of Collaboration Regarding Health Records of Incarcerated Individuals (HR 138)**

**Mr. Tim Brown, Department of Correction,** provided the members with the form developed by the Department of Correction to be used by local entities transferring inmates to the Department of Correction. (Attachment 6) Mr. Brown reported that the process appears to be working well.

#### **V. Adjournment**

The meeting was adjourned at 3:30 P.M.